IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Dalveer Singh. Versus The Judge, Motor Accident Claims Tribunal, Bhilwara.

S.B. Civil Writ Petition No. 1744/2007

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Date of Order: March 29, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. I.R. Choudhary, for the petitioner.
Mr.B.L. Tiwari, Deputy Govt. Advocate, for the respondent.

BY THE COURT:

The respondent is persona designeta. Learned Deputy Government Advocate is directed to accept the notice for the respondent and he accepts the notice. With the consent of learned counsel for the parties, the writ petition is being finally heard and decided at the admission stage.

By the instant writ petition under Article 227 of the Constitution of India, the petitioner has impugned the order dated 14-2-2007 (Annx.4), whereby the respondent dismissed the application dated 6-1-2007 filed by the petitioner seeking release of the Fixed Deposit Receipt's amount in his favour on the ground of marriage of his daughter.

I have heard learned counsel for the parties.

Learned counsel for the petitioner has relied on a decision of this Court in Bhanwari Devi Vs. Union of India & ors., AIR 2004 Raj. 60.

The facts and circumstances giving rise to the instant writ petition are that in the intervening night of 25/26th May, 1997, the petitioner sustained injuries in a road accident occurred due to rash and negligent driving of tanker No. MP.09-KA-5335. He filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 before the Judge, Motor Accident Claims Tribunal, Bhilwara, being Claim Petition No. 856/2004 (238/2003). By the judgment and award dated 20-5-2005, the Tribunal allowed the claim petition filed by the petitioner and awarded a sum of Rs. 1,00,000/- as compensation along with interest @ 6% per annum. However, it was directed that out of the total amount of compensation awarded, the petitioner shall deposit a sum of Rs.50,000/- under Fixed Deposit Receipt. The petitioner, in compliance of the award, deposited a sum of Rs.50,000/- under the Fixed Deposit Receipt. The marriage of petitioner's daughter was scheduled to be solemnized on 19-1-2007 and, therefore, the petitioner moved before the respondent Tribunal for releasing the amount of FDR so as to arrange money for the marriage of his daughter. The application was moved on 6.1.2007, which was kept pending by the tribunal and in the meantime, the marriage of petitioner's daughter was solemnized.

Thereafter, by the order impugned dated 14-2-2007 (Annx.4), the Tribunal dismissed the application on the ground that the marriage of petitioner's daughter had already been solemnized and, therefore, declined to release the amount of F.D.R. Hence this writ petition.

On similar facts, this Court, in Chatar Lal Vs. Motor Accident Claims Tribunal, Rajsamand, (1997) 1 Raj. L.W. 169, held that there is a fundamental distinction between imposition of restriction on the use of property and deprivation of a person of his property. There may be a situation where a person may not be deprived of his property arbitrarily and capriciously yet such reasonable restriction may be imposed about its user or management. Such reasonable restrictions are imposed by the Tribunal taking extraordinary precautions to see that the amount of award should reach to real claimants. It was further held that a Court of law or a Tribunal can judiciously imposed reasonable restrictions on the use of the property of a minor or a person of unsound mind but such restriction may remain valid till he attains the age of majority and in case of a person of unsound mind till he attains his or her mental health. The Court further held that here in the present case, indisputably the petitioner is neither a minor nor a person of unsound mind, therefore, the Tribunal has no legal justification whatsoever to impose unreasonable restrictions on the use of the lump sum

compensation of Rs.1,00,000/- deposited in the Fixed Deposit Account of the petitioner.

In Bhanwari Devi Vs. Union of India & ors. (supra), the Motor Accident Claims Tribunal awarded compensation in favour of the petitioner therein. The matter was carried in appeal before the learned Single Judge and thereafter before the Division Bench of this Court. Ultimately the award became final awarding compensation of Rs.1,50,000/- in favour of the claimant therein. She moved an application before the Tribunal for release of the FDR amount on the ground that she is an old lady of 65 years and wishes to utilize the amount, which was declined by the tribunal. This Court held that declining to allow the claimant to use and enjoy the amount of compensation amounts to depriving her to hold and enjoy the property. The compensation is a property, to which the petitioner therein has a legal right to enjoy and use in the manner she wishes; however with certain restrictions and the rider, as set out by the Supreme Court in General Manager, Kerala State Road Transport Corporation Vs. Susamma Thomas, AIR 1994 SC 1631, and directed the Tribunal to release the amount forthwith.

In my view, the tribunal erred in denying the release of FDR amount to the petitioner on the ground that the amount is now not required for the marriage of the daughter of the petitioner as it has already been solemnized. The petitioner is a

major and a person of sound mind, therefore, there cannot be any justification in denying the release of the FDR amount to him as it is his property.

In this view of the matter, the writ petition is allowed. The impugned order Annx.4 dated 14-2-2007 passed by the respondent is set aside and the respondent is directed to release the amount of FDR in question in favour of the petitioner forthwith. There shall be no order as to costs.

(H.R. PANWAR), J.

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